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CHAPMAN v. KITE et al.

June 16, 1921.

[107 S. E. 702.]

1. Public Lands (§ 183*)—Evidence Held to Sustain Decision Land Not Waste and Unappropriated at Time of Grant from Commonwealth.—Evidence held to justify the trial court's decision determining the issues of fact against the cross-complainant's contention that the land in controversy was waste and unappropriated land at the time of his grant from the commonwealth.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 424.]

2. Appeal and Error (§ 882 (2)*)—Partition (§ 17 (2)*)—Court Had Jurisdiction to Annul Grant from Commonwealth to Cross-Complainant; Party Invoking Jurisdiction of Equity by Intervening Cannot Complain that Court Exceeded Jurisdiction.—Under Code 1919, § 444, in view of section 486, in suit to partition certain realty between heirs at law wherein a cross-bill was filed by a third person claiming title under a grant from the state, a court of equity, after determining the issues of fact against cross-complainant, namely, that the land in controversy was not waste and unappropriated land at the time of his grant, could repeal, set aside, and annul his grant from the commonwealth, and cross-complainant cannot complain on his appeal that the court exceeded the jurisdiction which he invoked by intervening the partition suit.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 651.]

Appeal from Circuit Court, Madison County.

Suit by J. W. Kite and others against the unknown heirs of Thomas Shirley, wherein Thomas A. Chapman filed cross-bill. From decree for complainants, cross-complainant appeals. Affirmed.

Browning & Browning, of Orange, and *John S. Chapman*, of Stanardsville, for appellant.

R. J. Thrift, of Charleston, W. Va., *N. G. Payne*, of Madison, and *Grimsley & Miller*, of Culpeper, for appellees.

MIHALCOE et al. v. HOLUB.

June 16, 1921.

[107 S. E. 704.]

1. Husband and Wife (§ 4*)—Husband Must Support Wife Independently of Her Estate.—A husband is under legal duty to support

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.